IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8449 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BORANA ENTERPRISES

Versus

ASSISTANT PROVIDENT FUND COMMISSIONER

Appearance:

1. Special Civil Application No. 8449 of 2004

MR GM JOSHI for Petitioner No. 1

MR MS RAO for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 16/07/2004

ORAL JUDGEMENT

Rule. Learned advocate Mr.M.S.Rao waives service of notice of rule on behalf of the respondent. At the joint request of the learned advocates appearing for the

parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the order dated 30th May, 2003 passed by the respondent in exercise of powers under section 7-A of the Employees of Provident Fund and Miscellaneous Provisions of the Act ('the said Act' for short) as well as order dated 2nd January 2004 rejecting the review application filed by the petitioner in exercise of powers under section 7-B of the said Act.

3. Learned advocate for the petitioner submits that though it is true that on number of occasions the matter was adjourned for hearing, the petitioner could not participate in the inquiry since the petitioner was the only person looking after the business and could not remain present before the authorities. He, however, submits that if one opportunity is given to the petitioner, the petitioner will cooperate with the inquiry and supply all the necessary documents to the respondent. Considering the request made, I am of the opinion that the petitioner can be given one more chance to appear before the respondent and put forth his case. This, however, cannot be done unconditionally and I direct that the petitioner shall deposit with the respondent 25 per cent of the total outstanding dues demanded under the orders under section 7-A as well as 7-Q of the said Act. The said deposit shall be made within a period of four weeks from today. On the condition that the petitioner deposits the amount as mentioned above, the impugned orders dated 30th May 2003 and 2nd January 2004 are quashed and set aside and the matter is remanded to the respondent for fresh consideration and disposal after hearing the petitioner.

4. In view of these directions, the petition stands disposed of. Rule is made absolute to the above extent. The petitioner shall pay cost of Rs.5,000/- to the respondent.

(Akil Kureshi, J.)
(vjn)